

respondent. Respondent did not defend the claim on the grounds that timely notice was not given. Rather, respondent contended that claimant failed to establish accidental injury arising out of and in the course of her employment. The Administrative Law Judge also found in respondent's favor on this issue.

Claimant testified that she injured her left knee and hip on October 10, 1996, when she slipped in water. Respondent introduced affidavits from two individuals who contradicted claimant's version of the events. The affidavit of Jean Schlesener stated that she overheard claimant tell another worker that she did not know how she had hurt her knee and thought she might have slept on it wrong. The affidavit of Albert Macias indicates he spoke with claimant on the day after the alleged accident. Claimant mentioned having knee symptoms, and he asked her if she had fallen. Claimant denied that she had fallen or hit her knee.

The finding by the Administrative Law Judge in this case rests in part on the assessment of the credibility of the live testimony of claimant. The Appeals Board generally defers to the judgement of the administrative law judge who has heard that testimony. For this reason, the Appeals Board agrees with and affirms the findings by the Administrative Law Judge that claimant did not sustain an accidental injury arising out of and in the course of her employment.

WHEREFORE, the Appeals Board finds that the Order by Administrative Law Judge Floyd V. Palmer, dated June 26, 1997, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1997.

BOARD MEMBER

c: Stanley R. Ausemus, Emporia, KS
Laura E. Thompson, Overland Park, KS
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director